1944 **File No.** O Limitation 44.

Legal Department.

A **BRANCH**

**Subject:—**

Opinions under the Limitation Act, 1908.

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**File No.** O. Limitation/44

Gen. 194 e.

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C O N T E N T S.

Legal Department File No. O. Limitation/1944.

| Sr.No. | R.I./C.No. | Subject | Pages |
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| | C.Limitation 1944 | Opinions under the Limitation Act. 1908. | |
| 1. | 7443 28-10-44 | Whether claim of the B.B.I.C.I.Rly. to the refund of sums irregularly recovered by Surat Municipality etc. is time barred. | 1-3 |
| 2. | 6367 28-11-1944 | Whether amount of the interest recovered on Local Board toll dues wrongly credited to Govt. will be refunded by Govt. to the Board. | 5-7 |

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MR
1247

K.S.R.
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8537 dated 6-10-1944.

Submitted with reference to para. 3 of G.D. office note dated 3-10-1944 at p. 22.

2. The R.L.A. has been requested to advise whether the claim of the B.B . and C.I. Railway to the refund of a sum of Rs. 221-4-0 irregularly recovered by the Surat Municipality on account of the general sanitary cess on railway properties, from 1-7-1923 to 31-3-1938, is time -barred under article 97 of the First Schedule to the Indian Limitation Act, 1908.

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Office of the R.L.A.

The relevant provision is Article 62 of the Limitation Act and the xtx claim of the B.B. & C.I.Rly. for refund of the tax would appear to be time barred. ~~$~~ ( 32 All. 491).

Sd/-P.N.Moos
27-10-1944

O.C. Remembrancer of Legal Affairs.

U.R. to G.D.,No. 7~~4~~43 dated the 28th October 1944.

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L.D.B.I.No. 8726 /44-11-12/1944.

Submitted.

In his opinion No. 3716, dated the 24th May 1944; R.L.A. had held that interest on overdue instalments of local Boards's Toll dues would be property creditable to the Local Board concerned and not to Govt. as was the practice, as the liability to pay interest arises under the contract and not under sec. 148 of the Land Revenue Code. This opinion of the R.L.A. was communicated by G.D. to Commr. S.D. under a G.L.G.D.No. 5322/33/7715-C. dated the 5th June 1944 informing him that Govt agrees that the interest on overdue instalments of the Board's toll dues would be creditable to the Board. The Commr. sent a copy of the G.D. letter to the Collr. of Kolaba who in turn endorsed a copy to the President, D.L.B. On receipt of the copy of the G.O. letter, the President, D.L.B.Kolaba inquired of the Collr. whether the orders issued by Govt. have retrospective effect and whether the amount of interest recovered on Local Board toll dues credited to Govt. will be refunded by Govt. to the Boards. On receipt of this letter from the President, D.L.B. Kolaba, the Collr. of Kolaba referred the matter to the Commr. S.D.(vide 3 ante) observing that there appears no objection to refund to the District Local Board the amount of interest which may have been (then) wrongly credited to Govt. during the period of the last three years only as the amounts credited prior to that have become time barred under the provisions of the Indian Limitation Act, 1908 (Article 96 1st Schedule). The Commr. referred the matter to G.D. G.D. is doubtful whether Boards claim can be said to be time barred as the period of limitation begins to run from 5th June 1944, when mistake was discovered and 4 hence R.L.A. has been requested to advise The G.D. on at pp. 9-10 ante, particularly para 2 thereof may be seen.

S.A.K.

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The view taken by the Collector of Kolaba is correct.

2. The relevant provision is Art. 62 of the Limitation Act, 1908, and consequently the amounts which have been wrongly credited to Government during the last three years are payable to local boards the amounts credited to Government prior to the last three years being time-barred.

Sd/-

for Remembrancer of Legal Affairs.

U.H. to C.D.No. 8367, dated the 23th November 1944.

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